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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on  
Regulations Relating to Passenger Carriers,  
Ridesharing, and New Online-Enabled  
Transportation Services.

Rulemaking 12-12-011  
(Filed December 20, 2012)

**ADMINISTRATIVE LAW JUDGE'S RULING ORDERING LYFT, INC. TO  
APPEAR FOR HEARING AND TO SHOW CAUSE AS TO WHY IT SHOULD  
NOT BE FOUND IN CONTEMPT, WHY PENALTIES SHOULD NOT BE  
IMPOSED, AND WHY LYFT, INC.'S LICENSE TO OPERATE SHOULD NOT  
BE REVOKED OR SUSPENDED FOR FAILURE TO COMPLY WITH  
COMMISSION DECISION 13-09-045**

**Summary**

This ruling orders Lyft, Inc. (Lyft or Respondent) to appear for hearing and to show cause, if any, why Respondent should not be found in contempt of Decision 13-09-045 (Decision or D.13-09-045), fined and penalized, including suspension or revocation of its license to operate from this Commission, for failing to comply with D.13-09-045. The specific allegations that Respondent must address at the upcoming hearing are discussed below.

The authorities that Respondent is ordered to address are Rule 1.1 of the Commission's Rules of Practice and Procedure, as well as Pub. Util. Code §§ 701, 2107, 2108, 2113, 5411, 5415, 5378(a) and 5381.

**1. Background**

On September 19, 2013, the Commission, in D.13-09-045 created a new category of charter party carrier (TCP) of passengers called Transportation Network Companies (TNCs). The Decision set forth the various requirements

that TNCs must comply with in order to operate in California. Among other regulatory requirements, the Decision required TNCs to submit annual reports containing specific information. Specifically, the Decision states that:

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the Safety and Enforcement Division (SED) a report detailing the number and percentage of their customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles.<sup>1</sup>
- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates; and the number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates. The verified report provided by TNCs must contain the above ride information in electronic Excel or other spreadsheet format with information, separated by columns, of the date, time, and zip code of each request and the concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted. In addition, for each ride that was requested and accepted, the information must also contain a column that displays the zip code of where the ride began, a column where the ride ended, the miles travelled, and the amount paid/donated. Also, each report must contain information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.<sup>2</sup>

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<sup>1</sup> D.13-09-045 at 30-31.

<sup>2</sup> *Id.* at 31-32.

- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report in electronic Excel or other spreadsheet format detailing the number of drivers that were found to have committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints. Each TNC shall also provide a verified report, in electronic Excel or other spreadsheet format, of each accident or other incident that involved a TNC driver and was reported to the TNC, the cause of the incident, and the amount paid, if any, for compensation to any party in each incident. The verified report will contain information of the date of the incident, the time of the incident, and the amount that was paid by the driver's insurance, the TNC's insurance, or any other source. Also, the report will provide the total number of incidents during the year.<sup>3</sup>
- One year from the effective date of these rules and annually thereafter, each TNC shall submit to the SED a verified report detailing the average and mean number of hours and miles each TNC driver spent driving for the TNC.<sup>4</sup>
- TNCs shall establish a driver training program to ensure that all drivers are safely operating the vehicle prior to the driver being able to offer service. This program must be filed with the Commission within 45 days of the adoption of this decision. TNCs must report to the Commission on an annual basis the number of drivers that became eligible and completed the course.<sup>5</sup>

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<sup>3</sup> *Id.* at 32.

<sup>4</sup> *Id.* at 32-22.

<sup>5</sup> *Id.* at 27 (emphasis added).

Respondent operates the transportation application known as Lyft. D.13-09-045 found that Lyft was a charter party carrier of passengers, thus subjecting Respondent to the Commission's jurisdiction. On April 9, 2014, the Commission issued Respondent's TNC Permit. Prior to this time, the respondent was operating under an interim agreement with the SED, while Rulemaking 12-12-011 progressed.

**2. Respondent Failed to Submit All Information Ordered In Decision 13-09-045.**

On September 19, 2014, Respondent submitted annual report information to SED. After reviewing the information submitted, SED found that the Respondent failed to comply with the reporting requirements set forth in D.13-09-045 by failing to provide all of the required information in those reports.

Specifically, Respondent failed to provide the following:

1. The number of rides requested and accepted by TNC drivers within each zip code where the TNC operates;
2. The number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates;
3. The date, time, and zip code of each ride request;
4. The concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted;
5. Columns that displays the zip code of where each ride that was requested and accepted began, ended, the miles travelled, and the amount paid/donated;
6. Information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers;
7. For the report on issues with drivers, the time of each incident reported;

8. For each incident reported, the insurance amount paid, if any, by any party other than the TNC's insurance.<sup>6</sup>

Since Respondent's incomplete annual reports were submitted on September 19, 2014, SED has worked to obtain complete information as required by the Commission. As discussed in SED's Staff Report attached herein, SED has issued follow-up data requests to Respondent seeking a complete response to annual reporting requirements. As of the date of this Ruling, SED has not received all of the information ordered by D.13-09-045.<sup>7</sup>

### **3. Fines, Penalties and Contempt**

Pub. Util. Code § 2107 provides for a penalty of not less than five hundred dollars and not more than fifty thousand dollars for a utility's failure or neglect to comply with "any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the [C]ommission." Pub. Util. Code § 2108 provides that every violation of any order, decision, decree, rule, direction, demand or requirement of the Commission "is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense."

Pub. Util. Code § 5411 provides that a TCP that "fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the [C]ommission" is guilty of a misdemeanor and is punishable by a fine of not less than one thousand dollars and not more than five thousand dollars for every violation or failure to comply with any order or decision of the Commission. Every violation of Pub. Util. Code § 5411, *et seq.* "is a separate and

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<sup>6</sup> See SED Staff Report at 4-5.

<sup>7</sup> SED Staff Report at 3-4.

distinct offense, and in case of a continuing violation, each day's continuance thereof is a separate and distinct offense." (Pub. Util. Code § 5415.)

Pub. Util. Code § 2113 states that a utility, corporation, or person which fails to comply with any part of any order, decision, rule, regulation, direction, demand, or requirement of the Commission or any Commissioner is "in contempt of the [C]ommission," and may be punished by the Commission "in the same manner and to the same extent as contempt is punished by courts of record."

In addition, pursuant to Rule 1.1 of the Commission's Rules of Practice and Procedure, any person who transacts business with the Commission may never "mislead the Commission or its staff by an artifice or false statement of fact or law." A person who violates Rule 1.1 may be sanctioned in accordance with Pub. Util. Code § 2107.

Moreover, in addition to imposing monetary fines, penalties, and holding a utility in contempt, the Commission can do all things necessary and convenient in the exercise of its power and jurisdiction. (Pub. Util. Code §§ 701 and 5381.) Accordingly, penalties may also include additional requirements for Respondent to immediately rectify its violations by requiring it to immediately turn over all requested information to SED, or any other measures the Commission deems necessary.

Finally, the Commission is empowered by law to permanently revoke the Respondent's permit. Pub. Util. Code § 5378(a) provides that the Commission may "cancel, revoke, or suspend any operating permit or certificate" issued to any charter party carrier, including Respondent, for any violation of any order, decision, rule, or requirement of the Commission.

In sum, the Commission may impose, fines, penalties, hold Respondent in contempt, and/or impose any other punishments consistent with the foregoing Public Utilities Code Sections and Rule 1.1 if found to be supported by the evidence at the OSC hearing.

**4. *Ex Parte* Prohibition**

As provided in Rule 1.3(a) and 8.2(b) of the Commission's Rules of Practice and Procedure, and as set forth in the assigned Commissioner's Ruling of November 7, 2014, the OSC portion of this proceeding, including the OSC hearing, is categorized as adjudicatory and *ex parte* communications are prohibited. The determination as to category is appealable pursuant to Rule 7.6 of the Commission's Rules of Practice and Procedure.

**IT IS RULED that:**

1. Lyft, Inc. (Lyft or Respondent) is ordered to appear at an Order to Show Cause hearing to be scheduled as described below, and to show cause there as to why the Commission should not adjudge Respondent in contempt of the Commission, for failing to comply with the Commission's orders in Decision (D.) 13-09-045 and for violating the specific requirements set forth in D.13-09-045.

2. Respondent shall appear and show cause why it should not be fined or otherwise penalized, or have its license to operate revoked or suspended, at the following evidentiary hearing:

**December 11, 2014  
1:00 P.M.  
Commission Hearing Room  
505 Van Ness Avenue  
San Francisco, CA**

3. A quorum of the Commission may attend the hearing.



4. At the hearing, Respondent shall cause to appear a senior executive capable of addressing all of the alleged violations in this Ruling and in the accompanying Safety and Enforcement Division Staff Report, as well as any other officers, employees, or agents necessary to explain and address all of the above allegations. Such witnesses shall be placed under oath and subject to cross-examination. Respondent may provide other competent witnesses to provide relevant testimony.

5. No later than December 4, 2014, Lyft shall file and serve a verified statement responding to the allegations contained in this Ruling and in the accompanying Safety and Enforcement Division Staff Report .

6. No later than December 9, 2014, Safety and Enforcement Division shall file and serve a verified reply statement in response to Lyft's December 4, 2014 statement.

7. This Ruling constitutes the Notice of Opportunity to Be Heard pursuant to Pub. Util. Code §§ 2113 and 5378(a)(2). Respondent is ordered to address Rule 1.1 of the Commission's Rules of Practice and Procedure, as well as Pub. Util. Code §§ 701, 2107, 2108, 2113, 5411, 5415, 5378(a) and 5381. Respondent must appear at the hearing. Should Respondent fail to appear, the allegations in this Ruling and the accompanying Safety and Enforcement Division Staff Report will be deemed admitted although the Assigned Administrative Law judge may allow additional evidence or information.

8. Respondent and any agent, representative, employee, consultant, or other individual or person acting on behalf of the respondent must cease and desist from any and all violations of and comply with all Commission orders, rules or regulations, and any pertinent Public Utilities Code statute, including the requirement that respondent must obtain the Commission's prior written



approval before executing any agreement for the sale, transfer, or encumbrance of any ownership interests of its Transportation Network Company business.

9. This Order to Show Cause portion of the proceeding, including the OSC hearing, is categorized as adjudicatory and *ex parte* contacts are prohibited. The determination as to category is appealable pursuant to Rule 7.6 of the Commission's Rules of Practice and Procedure.

10. This Ruling shall be served on the mailing list for this proceeding. Additionally, the Executive Director will send a copy of this Ruling by certified mail return receipt requested to the Respondent at the following addresses:

Logan Green, CEO  
Lyft, Inc.  
548 Market Street, # 68514  
San Francisco, CA 94104

Kristin Svercheck  
Counsel for Lyft  
548 Market St., #68514  
San Francisco, CA 94194

Lyft, Inc.  
C/O Earth Class Mail Corporation  
548 Market Street  
San Francisco, CA 94104-5401

Dated November 14, 2014, at San Francisco, California.

/s/ ROBERT M. MASON III  
Robert M. Mason III  
Administrative Law Judge

**ATTACHMENT**



**REPORT ON THE FAILURE OF  
LYFT, INC.  
TO COMPLY WITH  
THE REPORTING REQUIREMENTS OF  
DECISION (D.) 13-09-045**

**Prepared By The Safety and Enforcement Division  
Transportation Enforcement Branch**

**October 2014**

## **1. Executive Summary**

On September 19, 2013, the California Public Utilities Commission (Commission) adopted rules and regulations for Transportation Network Companies (TNCs) to obtain a permit to operate in California. Among other requirements, the Commission ordered each TNC to submit specific and detailed information to the Safety and Enforcement Division (SED) one year from the effective date of the decision, for a submission deadline of September 19, 2014.<sup>1</sup> SED found significant gaps and omissions in the data submitted by Lyft, Inc. (“Lyft”). Lyft failed to submit to SED the most critical data components required by Decision (D.)13-09-045, a violation of the Commission order.

## **2. TNC Data Reporting Requirements**

D.13-09-045 requires each TNC to submit six verified<sup>2</sup> reports to SED by September 19, 2014 and annually thereafter. Commission staff developed reporting templates and posted those templates on the Commission's website. The final version became available on February 12, 2014 (Attachment A).<sup>3</sup>

Specifically, D.13-09-045 requires the TNCs to submit the following information:

### **Report on Providing Accessible Vehicles**

- The number and percentage of customers who requested accessible vehicles and how often the TNC complied with such requests.

### **Report on Providing Service By Zip Code**

- Rides requested and accepted by TNC drivers within each zip code where the TNC operates.
- Rides requested but not accepted by TNC drivers within each zip code of operation,
- Date, time and zip code of each request and whether the ride was accepted or not accepted.
- Zip code of where the ride began and ended.
- Amount paid.
- Number of rides requested, accepted and not accepted, aggregated by zip code.

### **Report on Hours Logged by Drivers and Report on Miles Logged by Drivers**

- The average and mean number of hours and miles each TNC driver incurred while driving for the TNC.

### **Report on Problems with Drivers**

- The number of drivers that were found to have committed a violation and/or suspended, including a list of zero tolerance complaints and the outcome of investigation into those complaints.
- Each accident or other incident that involved a TNC driver and was reported to the TNC,

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<sup>1</sup> R.12-12-011 Decision 13-09-045 Decision Adopting Rules and Regulations to Protect Public Safety While Allowing New Entrants to the Transportation Industry, adopted September 19, 2013, Ordering Paragraph 1, referring to Safety and Regulatory Requirements at pp. 26-33.

<sup>2</sup> D.13-09-045, p.29 “...a signature of a corporate officer of the TNC verifying under penalty of perjury...that the report is accurate and contains no material omissions.”

<sup>3</sup> <http://www.cpuc.ca.gov/PUC/Enforcement/TNC/TNC+Required+Reports.htm>, accessed October 30, 2014.

- The cause of each incident;
- Date and time of each incident/accident
- Amount paid, if any, for compensation to any party in each incident.
- Amount Paid by Driver's Insurance
- Amount Paid by TNC's insurance
- Amount Paid by any other Source

#### **Report on Drivers Completing Driver Training Course.**

- Number of drivers that became eligible and completed the course by month and year.

### **3. SED Data Collection Efforts**

On September 9, 2014, SED staff sent an email to all TNC representatives to provide a courtesy reminder regarding the September 19, 2014 deadline for submitting reports pursuant to D.13-09-045.

On September 19, 2014, at 4:54 pm, the Commission's mail room staff received an envelope containing Lyft's submission pursuant to D.13-09-045. After reviewing Lyft's submission, SED staff concluded that Lyft had failed to provide a significant amount of the data required by D.13-09-045.

Between October 6, 2014 and October 20, 2014, SED communicated with Lyft on multiple occasions regarding Lyft's late and incomplete data reports (Attachment B).

On October 6, 2014, SED staff informed Lyft that its September 19, 2014 submission was incomplete, and indicated that Lyft must provide the required data within four days. On October 8, 2014, an attorney for Lyft called SED staff to acknowledge SED's communication, and stated that Lyft would not be able to meet the October 10, 2014 deadline. On October 9, 2014, Lyft's counsel emailed SED staff to request a one-week extension (i.e., till October 17, 2014).

On October 14, 2014, SED staff attended a meeting arranged by PPD staff with representatives from all the TNCs.<sup>4</sup> The purpose of the meeting was to discuss the Commission's upcoming En Banc, specifically the TNC Panel and associated presentations. During that meeting, Lyft's attorney made a verbal commitment to SED staff that Lyft would submit additional data by October 17, 2014.

On October 17, 2014, at 3:58 pm, Lyft's attorney emailed SED staff to request an extension until close of business on Monday, October 20, 2014. SED staff informed Lyft's attorney that their request for a second extension was denied, and Lyft had until 11:59 pm to submit the required information. At 6:33 pm Lyft emailed SED staff with its "response" attached, but noted that "[d]ue to the highly confidential designation of the Zip Code reports, we will deliver those by hand on Monday morning."

On October 20, 2014, SED staff received a flash drive from Lyft and at 1:08 pm, after reviewing the contents, emailed Lyft's counsel to inquire about Excel files that the October 17, 2014 response stated were attached (contained) in the flash drive. At 1:32 pm, Lyft's attorney responded that they had not included the Excel files and would send another "zip" (flash) drive with the Excel files. At 2:11 pm, SED staff received notice that an

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<sup>4</sup> November 4, 2014 En Banc Agenda - <http://www.cpuc.ca.gov/NR/rdonlyres/A1896AC3-E251-4251-853A-59D010AEDC8F/0/TNCEnBancAgenda101514.pdf>, accessed October 30, 2014.

envelope had been hand delivered to the mailroom. After reviewing the contents of the flash drive, SED staff concluded that Lyft remains out of compliance with several of the reporting requirements in D.13-09-045.

#### **4. Lyft Data Submissions**

SED received incomplete data submissions from Lyft on September 19, 2014 and October 20, 2014, respectively. After reviewing the Lyft reports, SED staff concluded that Lyft failed to submit detailed data for the Report on Providing Service by Zip Code, arguably the most substantial of the six reports.<sup>5</sup> In summary, two of the six required reports lacked one or more required component(s), as follows:

##### **Report on Providing Service by Zip Code:**

- Date, time, and zip code of each request.<sup>6</sup>
- Concomitant date, time, and zip code of each ride that was subsequently accepted or not accepted.
- For each ride that was requested and accepted: a column that displays the zip code of where the ride ended, the miles travelled, and the amount paid/donated.

##### **Report on Problems With Drivers:**

- The time of each incident.<sup>7</sup>
- Amount paid, if any, by any party other than the TNC's insurance

SED staff also concluded that Lyft provided complete information on several data components as required by D.13-09-045, which includes:

- Number and percentage of customers who requested accessible vehicles, and how often the TNC was able to comply with requests for accessible vehicles
- Number of rides requested and accepted by TNC drivers within each zip code where the TNC operates.
- Number of rides that were requested but not accepted by TNC drivers within each zip code where the TNC operates.
- For each ride that was requested and accepted: a column that displays the zip code of where the ride began

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<sup>5</sup> To provide some context, the size of Sidecar's Zip Code report constitutes approximately 89 percent of the total size (measured in bytes) of their total submission.

<sup>6</sup> Dates and times (by hour) were provided for the number of rides that were cancelled by zip code, but not for each ride that was requested and accepted.

<sup>7</sup> Lyft's October 17, 2014 response, which was marked as confidential, provides an explanation for why this information was not included.

- Information aggregated by zip code and a statewide total of the number of rides requested and accepted by TNC drivers within each zip code where the TNC operates and the number of rides that were requested but not accepted by TNC drivers.
- Number of drivers that became eligible and completed the driver training course.
- Number of drivers that were found to have committed a violation and/or were suspended, including a list of zero tolerance complaints and the outcome of the investigation into those complaints,
- Information on each accident or other incident that involved a TNC driver and was reported to the TNC, such as:
  - o Date of the incident.
  - o Amount paid by the TNC's insurer, if any, to compensate any party in each incident.
  - o Total number of incidents since October 1, 2013.
- Average and median number of hours and miles each TNC driver spent driving for the TNC.

## 5. Discussion

Lyft had multiple opportunities to raise concerns regarding the reporting requirements, yet failed to notify SED of any concern regarding the reporting requirements. Lyft did not initiate a discussion with SED staff until October 8, 2014, thirteen working days after the submission deadline. Even at this point, Lyft only verbally stated its concerns informally to SED staff.<sup>8</sup>

Lyft did not file an Application for Rehearing of D.13-09-045, nor did it file a Petition for Modification of D.13-09-045 within the timeframe specified by the Commission's Rules of Practice and Procedure (Rules 16.1 and 16.4, respectively). Lyft also did not file a motion for a protective order with the Commission to prevent it from having to submit the reports as required. Templates for the required reports have been available on the Commission's website since, at the latest, February 12, 2014, yet Lyft did not raise concerns regarding the submission until nearly three weeks after the reports were due.<sup>9</sup>

## 6. Recommendations

SED recommends that the Commission take the following actions:

- Issue an Order to Show Cause to determine why the Commission should not take an enforcement action against Lyft, such as financial penalties or revocation of Lyft's Permit to Operate.
- Order Lyft to submit to SED the detailed data required by D.13-09-045.

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<sup>8</sup> In its October 17, 2014 response, which is marked as confidential, Lyft provided a different explanation for why it was not providing certain required information. SED staff and CPUC counsel have concluded that the explanation provided by Lyft is not applicable / sufficient justification for failure to provide the information required by D.13-09-045.

<sup>9</sup> <http://www.cpuc.ca.gov/PUC/Enforcement/TNC/TNC+Required+Reports.htm>, accessed October 15, 2014, states "Last Modified: 2/12/2014".



- If Lyft fails to provide sufficient reason for its failure to comply with D.13-09-045 Ordering Paragraph 1, the Commission should assess a civil penalty on Lyft pursuant to Public Utilities Code §5378(b).

## **ATTACHMENT A**

### **DATA SUBMISSION TEMPLATES**

Annual Report on Providing Accessible Vehicles						
YEAR:						
Month	Total # of Requested Rides (all types)	Number of Hours an Accessible vehicle is available per month	Number of accessible vehicles	Total Number of Customer Requests for Accessible Vehicles	Total Percentage (%) of Customer Requests for Accessible Vehicles	Total Number of fulfilled Accessible Vehicle Requests
January						
Feb						
Mar						
Apr						
May						
June						
Jul						
Aug						
Sep						
Oct						
Nov						
Dec						

Annual Report on Number of Drivers Completing Driver Training Course	
YEAR:	
Month	Total Number of Drivers tht Became Eligible and Completed the Course
January	
Feb	
Mar	
Apr	
May	
June	
Jul	
Aug	
Sep	
Oct	
Nov	
Dec	
TOTAL:	0

## Annual Report on Hours Logged by Drivers

**Year:**

[illegible]

## Annual Report on Miles Logged by Drivers

Year:

[illegible]

Report on Problems with Drivers					
YEAR:					
Date of incident/accident					
Time of incident/accident					
Date Complaint Filed (month/day/year)					
Complaint Name and/or Number					
Waybill No. Associated with Incident					
VIN #					
Name of Driver (last, first initial)					
Outcome or status of investigation of each collision and/or Zero Tolerance Complaint. Specify the following: a brief description of the collision or complaint and who, if anyone, was 1) cited, 2) ticketed, 3) had their license suspended, 4) found to be a primary collision factor [on a CHP form 555 or similar form], 5) found guilty [by verdict or plea] by a criminal court, and/or 6) found liable by a civil court or through arbitration. If criminal or civil proceeding(s) are in progress, state the venue, Court file number and status of those proceedings.					
Amount paid, if any, to any party in each incident reported on this spreadsheet.					
Amount Paid by Driver's Insurance					
Amount Paid by TNC's Insurance					
Amount Paid by any other Source					





## **ATTACHMENT B**

**EMAILS BETWEEN SED AND LYFT**

**[PAGES REDACTED]**

## **ATTACHMENT C**

### **SUMMARY OF LYFT DATA SUBMISSIONS**

**[PAGES REDACTED]**